

William J. Gavin

Page 14

1 Vesper George School of Art?
 2 A. No.
 3 Q. Did you successfully complete the program at
 4 Vesper George?
 5 A. I did not.
 6 Q. Did not, okay. Under what circumstances did
 7 you leave?
 8 A. I needed a job.
 9 Q. Okay. When was that?
 10 A. I'm not sure of the exact year and time.
 11 Q. Do you know how far away you were from
 12 getting a certificate?
 13 A. Half a year.
 14 Q. What did you do after you left the Vesper
 15 George School of Art?
 16 A. I got a job at a label company.
 17 Q. At a label company?
 18 A. Yes.
 19 Q. What were you doing at that job?
 20 A. We created and pasted, it was called
 21 paste-up labels for products.
 22 Q. Do you recall the name of that company?
 23 A. Waldoroth Label Company.
 24 Q. Could you spell that for us?

Page 15

1 A. W-A-L-D-O, I believe, R-O-T-H. Waldoroth.
 2 Q. Did you attend any school after you left
 3 Vesper George?
 4 A. Yes.
 5 Q. When did you next go to school?
 6 A. Schools or were just classes.
 7 Q. All right. So you left Vesper George to go
 8 to work at Waldoroth. Do you recall what year that
 9 was?
 10 A. I don't remember exactly what year it was,
 11 no.
 12 Q. Do you recall how long you were at
 13 Waldoroth?
 14 A. Probably a year and a half.
 15 Q. Were you in school at all while you were
 16 working at Waldoroth?
 17 A. No.
 18 Q. Do you recall the next time you attended any
 19 sort of classes?
 20 A. Again, the only classes I took were painting
 21 classes.
 22 Q. All right. Do you recall when you took
 23 painting classes?
 24 A. I don't remember the exact dates. They were

Page 16

1 here and there.
 2 Q. Okay. I'm just trying to get a sense of how
 3 long after you left Vesper George it was before you
 4 took any painting classes.
 5 A. Oh, it was years. I'm not sure how many
 6 years.
 7 Q. Where did you go to work after Waldoroth?
 8 A. Honeywell Information Systems in Waltham.
 9 Q. When did you start working for Honeywell?
 10 A. 1975.
 11 Q. What was your job at Honeywell?
 12 A. I was hired as a technical illustrator.
 13 Q. What did that involve?
 14 A. Graphic art duties of -- typical graphic art
 15 duties.
 16 Q. Did you leave Waldoroth to take the job at
 17 Honeywell?
 18 A. Yes.
 19 Q. At the time you began work at Honeywell, had
 20 you taken any classes in painting?
 21 A. Did you say before or --
 22 Q. Before.
 23 A. No.
 24 Q. Do you recall when after you joined

Page 17

1 Honeywell that you began taking classes of painting?
 2 A. Again, actual days, I can't remember. I
 3 believe I was employed -- it must have been around
 4 1976, '77.
 5 Q. Where did you take the painting classes?
 6 A. DeCordova Museum.
 7 Q. Was that part of any sort of degree or
 8 certificate program?
 9 A. No.
 10 Q. Was that painting in relation to commercial
 11 art or is that a different sort of discipline?
 12 A. It was different.
 13 Q. How long did you attend classes at
 14 DeCordova?
 15 A. They were only approximately a week.
 16 Q. Did you attend any other sort of schools
 17 where you took any classes or courses in art?
 18 A. No.
 19 Q. So you don't have any sort of a degree or
 20 certificate in any sort of an art -- from any sort
 21 of an art school?
 22 A. No.
 23 Q. Other than the classes and courses you've
 24 already described for us, have you had any other

5 (Pages 14 to 17)

William J. Gavin

Page 26

1 Q. Where did Gavin Associates advertise?
 2 A. In Ad Week.
 3 Q. What is Ad Week?
 4 A. Ad Week is a, what would you call it? A
 5 business magazine for the trade.
 6 Q. What trade is that?
 7 A. Advertising.
 8 Q. Is that -- is advertising industry an
 9 industry that would use a graphic artist?
 10 A. The advertising?
 11 Q. Yes.
 12 A. Yes.
 13 Q. You advertise under the name Gavin
 14 Associates, correct?
 15 A. No.
 16 Q. Is it Gavin Studios?
 17 A. Yes.
 18 Q. How long did you run the ads in Ad Week?
 19 A. Approximately a year.
 20 Q. Do you recall when that was?
 21 A. I don't remember the exact years.
 22 Q. What was the nature of the ad that you
 23 ran -- or let me ask it. Was it one ad that you ran
 24 for a year or was it different ads?

Page 27

1 A. It was a one ad.
 2 Q. What was the nature of that ad?
 3 A. A name and a phone number and service.
 4 Q. Did it describe the services that Gavin
 5 Studios provided?
 6 A. I believe it just said graphic arts, graphic
 7 artist service.
 8 Q. Do you still have any of the information
 9 relating to that ad at all?
 10 A. No.
 11 Q. What would have happened to it?
 12 A. The magazines were thrown out.
 13 Q. You didn't keep any records of what ads you
 14 had placed?
 15 A. No. It was -- no.
 16 Q. Did Gavin Studios, I assume you had to pay
 17 for the ads?
 18 A. Yes.
 19 Q. Did Gavin Studios have its own checking
 20 account at all?
 21 A. No.
 22 Q. How were the ads paid for?
 23 A. By check.
 24 Q. Whose check?

Page 28

1 A. Personal check.
 2 Q. Your personal check?
 3 A. My personal check.
 4 Q. Did Gavin Studios ever get any business as a
 5 result of the ads placed in Ad Week?
 6 A. Yes.
 7 Q. Was that for entities other than Honeywell?
 8 A. Yes.
 9 Q. Is it fair to say that, to your knowledge,
 10 Gavin Studios did not get any work from Honeywell
 11 through the ad in Ad Week? Do you understand that
 12 question?
 13 A. I did not get work from --
 14 MR. WILGOREN: I don't understand the
 15 question.
 16 Q. I'll ask it over again. At the time you
 17 placed the ad, you were already doing work for
 18 Honeywell, correct?
 19 A. Correct.
 20 Q. So your work at Honeywell was not the result
 21 of the ad you placed in Ad Week?
 22 A. Correct.
 23 Q. What are the names of companies that you did
 24 work for as a result of the ad?

Page 29

1 A. I don't remember all of them. There was
 2 only a few. Crown Service Systems.
 3 Q. What's the name?
 4 A. Crown Service Systems, Wellesley
 5 Publications, and a few odd ones that I just don't
 6 remember their names.
 7 Q. Just don't recall, all right. What type of
 8 work did you do for Crown Services?
 9 A. I did graphic arts.
 10 Q. Is it possible to be more specific?
 11 A. Sure. I did ad layouts for them, Yellow
 12 Page ads. Basically just advertising flyers for
 13 them.
 14 Q. Do you recall what period of time you did
 15 work for Crown Services?
 16 A. Again, I'm not sure of the years. I don't
 17 remember exactly what years it was.
 18 Q. Do you know how long you did work for Crown
 19 Services?
 20 A. Maybe two years.
 21 Q. Do you know if they're still in business?
 22 A. Yes, they are.
 23 Q. Do you do any work for them currently?
 24 A. No, I don't.

William J. Gavin

Page 30

1 Q. Do you recall when you last did any work for
2 Crown Services?

3 A. Again, I don't remember the exact year.
4 Somewhere in the '90's.

5 Q. Is it Wellesley Publications, is that the
6 name?

7 A. Yes.

8 Q. What type of business are they?

9 A. They produce a bimonthly real estate
10 magazine.

11 Q. What type of work did you do for them?

12 A. I checked their ads that are submitted for
13 publication and provide art services and any graphic
14 arts that they might need.

15 Q. Are you currently doing -- do you know if
16 Wellesley Publications are still in business?

17 A. Yes, they are.

18 Q. Are you currently doing work for them at
19 all?

20 A. Yes, I am.

21 Q. Have you done work for them fairly
22 consistently since the early 1980's?

23 A. Again, they're a bimonthly magazine. Every
24 other month I would do a few things for them.

Page 31

1 Q. Have they been a consistent customer of
2 Gavin Studios since the time you first started doing
3 work for them?

4 A. Yes.

5 Q. When I say you're doing work for them, is
6 that under the name Gavin Studios?

7 A. Yes.

8 Q. The same thing for Crown Services, was that
9 work done under the name --

10 A. Yes.

11 Q. Just wait until I finish the question.

12 A. Sorry.

13 Q. Under the name Gavin Studios?

14 A. Yes.

15 Q. Did Gavin Studios send invoices to both
16 Crown Services and Wellesley Publications for that
17 work?

18 A. Yes.

19 Q. Were those invoices paid?

20 A. Yes.

21 Q. Is the billing to Wellesley Publications, is
22 that done on a -- what's the basis on which -- let
23 me strike that and re-ask the question.

24 Was there an agreed upon fee? Is there

Page 32

1 an agreed upon fee with Wellesley Publications for
2 the work you do for them?

3 A. Yes.

4 Q. Is that a flat rate or an hourly rate?

5 A. It's an hourly rate.

6 Q. You're not an employee of Wellesley
7 Publications, correct?

8 A. No.

9 Q. You're not -- at any time have you been?

10 A. No.

11 Q. Same question for Crown Services --

12 A. No.

13 Q. -- have you ever been an employee of them?

14 A. Sorry, I interrupted you.

15 Q. That's okay. The answer is no?

16 A. No.

17 Q. Does Gavin Studios have records -- let me
18 ask a question before that.

19 Records relating to Gavin Studios, where
20 are those kept?

21 A. Where are they kept? They're at my home.

22 Q. Do you have records for the work you've done
23 for Wellesley Publications and Crown Services?

24 A. Yes.

Page 33

1 Q. Sitting here today, do you know the dollar
2 volume of work you have done for Wellesley
3 Publications?

4 MR. WILGOREN: From inception?

5 Q. Let me ask the last year, do you know how
6 much work you've done for Wellesley Publications?

7 A. Last year?

8 Q. Yes.

9 A. Yes, I do know.

10 Q. What is that amount?

11 A. Approximately.

12 Q. Yes.

13 A. Four thousand dollars.

14 Q. Do you recall your hourly rate currently for
15 Wellesley Publications?

16 A. Yes.

17 Q. What is that?

18 A. 60 dollars.

19 Q. Has that hourly rate changed over the course
20 of the time you've done work for Wellesley
21 Publications?

22 A. Yes.

23 Q. Has the annual income -- is the annual
24 amount that's been billed to Wellesley Publications,

9 (Pages 30 to 33)

William J. Gavin

Page 34

1 has that remained about the same since you began
 2 doing work for them?
 3 A. I'm not sure of that question again.
 4 Q. Sure. Your testimony was that you did
 5 approximately four thousand dollars worth of work
 6 for Wellesley Publications in the last year; is that
 7 correct?
 8 A. Correct.
 9 Q. Has that number been constant since the time
 10 you first started doing work for Wellesley
 11 Publications?
 12 A. You mean the amount?
 13 Q. Yes.
 14 A. No, it varies.
 15 Q. Okay. Has the number of hours changed --
 16 no, let me ask that the other way. Has the number
 17 of hours you worked for Wellesley Publications per
 18 year, has that remained fairly constant since you
 19 started doing work for them?
 20 A. No.
 21 Q. It fluctuates as well?
 22 A. Yes.
 23 Q. Sitting here today, do you have any idea as
 24 to the amount of work, number of hours you devoted

Page 35

1 to work for Crown Services?
 2 MR. WILGOREN: When?
 3 Q. The total length of time you worked for
 4 Crown Services.
 5 A. I can't put a number on that.
 6 Q. Would you have records at home that would
 7 show that?
 8 A. I believe so.
 9 Q. Other than those two businesses which you
 10 identified, do you recall any other businesses that
 11 you've done work for as Gavin Studios, other than
 12 Honeywell?
 13 A. No major businesses.
 14 Q. No major businesses? Okay. Do you recall
 15 any minor businesses?
 16 A. Yes.
 17 Q. Who is that?
 18 A. The names of the businesses?
 19 Q. If you recall.
 20 A. Again, if I can clarify. Some of these were
 21 just one-time jobs.
 22 Q. Okay.
 23 A. Hopkinton, I think, Education Foundation I
 24 believe was one.

Page 36

1 Q. Actually, let me show you a document.
 2 MR. DONOGHUE: Actually, can you mark
 3 that as Exhibit 1, first.
 4 (Exhibit 1 marked for identification)
 5 (Document exhibited to witness)
 6 Q. Mr. Gavin, I've placed a document in front
 7 of you, which has been marked as Exhibit 1, and ask
 8 you if you've seen that document before?
 9 A. Yes.
 10 Q. Could you tell us what that is?
 11 A. It is a resume of myself.
 12 Q. Did you prepare that resume?
 13 A. I did.
 14 Q. The document that was handed to you has
 15 three pages. Do you recognize the second and third
 16 pages?
 17 A. Yes.
 18 Q. What are those?
 19 A. Those are copies -- prints of work that I
 20 had done for Bull.
 21 Q. Were those attached to the resume?
 22 A. They were not.
 23 Q. They were not, okay. Do you know when you
 24 prepared Exhibit 1?

Page 37

1 A. The first page?
 2 Q. Yes.
 3 A. Judging by the client list here, it was
 4 probably around 2000.
 5 Q. Do you recall that you prepared the first
 6 page of Exhibit 1 at the time you were still
 7 performing services for Bull?
 8 A. Yes.
 9 Q. What was the purpose of creating the first
 10 page of Exhibit 1?
 11 A. To acquire more work.
 12 Q. Did you distribute the first page of Exhibit
 13 1?
 14 A. When it was asked for, yes.
 15 Q. Is your resume, the first page of Exhibit 1,
 16 is that also available on the Gavin Studio website?
 17 A. Yes.
 18 Q. In fact, there's a reference to the website
 19 at the heading of the first page, correct?
 20 A. Correct.
 21 Q. Does Gavin Studios still maintain that
 22 website?
 23 A. Yes.
 24 Q. Do you know when that website was created by

10 (Pages 34 to 37)

William J. Gavin

Page 38

1 Gavin Studio?
 2 A. I don't remember the exact date.
 3 Q. Can you give an approximate date at all?
 4 A. Probably around 1991, '92.
 5 Q. The second and third pages of Exhibit 1, I
 6 think you described them as examples of work you've
 7 done for Bull; is that correct?
 8 A. That's correct.
 9 Q. Are those samples contained on the Gavin
 10 Studio website?
 11 A. They are.
 12 Q. Is one of the reasons you maintain a Gavin
 13 Studio website to create work for Gavin Studio?
 14 A. Yes.
 15 Q. I'll ask you a couple of questions about the
 16 resume, page one. There's a reference to two
 17 websites about a third of the way down. One for
 18 www.ceoexchange.com and one for
 19 www.therealestatepro.com. Do you see those two
 20 references?
 21 A. Yes.
 22 Q. And it says built and maintained, correct?
 23 A. Correct.
 24 Q. What does that mean?

Page 39

1 A. That means I created the information
 2 pages -- not the information, I'm sorry. Created
 3 the pages that are on those websites.
 4 Q. Was that done for clients of Gavin Studio?
 5 A. Yes.
 6 Q. Who is the client for CEO exchange dot com?
 7 A. CEO exchange is the name of the client.
 8 Q. And the same question for the real estate
 9 pro.
 10 A. The real estate pro is the real estate
 11 professional magazine.
 12 Q. Do you recall when -- is that one of
 13 Wellesley Publications magazines?
 14 A. Correct.
 15 Q. Do you recall when you built either of those
 16 websites?
 17 A. I'd have to look at my records to find the
 18 exact date. Probably four years ago.
 19 Q. Approximately 2002?
 20 A. Probably before that. I'm guessing. I'm
 21 not sure exactly what date it was.
 22 Q. Do you recall whether you created those
 23 websites while you were still performing service --
 24 providing services to Bull?

Page 40

1 A. Yes.
 2 Q. You did create them?
 3 A. I did create those.
 4 Q. And you have records that would show when
 5 those were created?
 6 A. Yes.
 7 Q. Above that there's a reference to software
 8 experience. Where did you get the experience with
 9 the various types of software that are listed?
 10 A. I was self-taught.
 11 Q. Was that over a course of a period of time?
 12 A. Yes.
 13 Q. There's a reference to clients further down
 14 on the page one of Exhibit 1. I'll ask you to look
 15 at that and see if that refreshes your memory as to
 16 some other clients of Gavin Studios.
 17 A. Yes, they do.
 18 Q. Do you have records that would show what
 19 type of services you provided for each of those
 20 companies during what time period?
 21 A. Some of them.
 22 MR. WILGOREN: Objection.
 23 A. Sorry.
 24 MR. WILGOREN: Hasn't been established

Page 41

1 they were clients of Gavin Studios.
 2 MR. DONOGHUE: All right, well --
 3 Q. Are those clients of Gavin Studios?
 4 A. Are they, is that --
 5 Q. I'll ask it two different ways. There's a
 6 list that says partial list of clients, correct, on
 7 page one?
 8 A. Correct.
 9 Q. At some point were all those companies
 10 listed a client of Gavin Studios?
 11 A. When you say client, you mean on-going
 12 client or --
 13 Q. Well, at any time were those companies
 14 listed a client of Gavin Studios?
 15 A. Yes.
 16 Q. Are any of them current clients of Gavin
 17 Studios?
 18 A. Yes.
 19 Q. Who is a current client?
 20 A. Wellesley Publications.
 21 Q. Anyone else?
 22 A. No.
 23 Q. It says partial list of clients. Are there
 24 other clients -- have there been other clients of

11 (Pages 38 to 41)

William J. Gavin

Page 50

1 technical illustrator for a period of time?
 2 A. Yes.
 3 Q. For how long?
 4 A. Forever.
 5 Q. Okay. Well, all right, then.
 6 A. That was still part of the job.
 7 Q. So that part of your job never changed, is
 8 that what you're saying?
 9 A. Never changed.
 10 Q. At the time you were hired in 1975, were you
 11 hired as an employee?
 12 A. Yes.
 13 Q. Where did you work?
 14 A. In Waltham, Massachusetts.
 15 Q. Do you recall your pay rate at that time at
 16 all?
 17 A. Yes.
 18 Q. What was it?
 19 A. What I was offered or what I actually got?
 20 Q. Okay. If there's two different numbers, why
 21 don't you tell me what you were offered.
 22 A. I answered the ad for four dollars and 65
 23 cents an hour.
 24 Q. Okay. What did you actually start at?

Page 51

1 A. Four dollars and 45 cents an hour.
 2 MR. WILGOREN: Off the record.
 3 (Discussion off the record)
 4 Q. At some point you left Honeywell?
 5 A. Yes.
 6 Q. When was that?
 7 A. The exact date is -- I'm not sure of the
 8 exact date, but it was 1979. No, sorry, let me
 9 think. I believe it was '79.
 10 Q. All right.
 11 A. Yes, yes.
 12 Q. Sometime during that year?
 13 A. Yes.
 14 Q. Why did you leave Honeywell at that time?
 15 A. I left because -- honestly, to change my
 16 job. And my mother had died, and I was living at
 17 home.
 18 Q. When you left Honeywell, did you go to work
 19 for another employer?
 20 A. No.
 21 Q. Do you recall what your pay rate was when
 22 you left Honeywell in '79?
 23 A. No, I don't.
 24 Q. Do you recall if you got a raise from the

Page 52

1 4.45?
 2 A. I assume I did.
 3 MR. WILGOREN: Don't assume.
 4 A. I'm sorry, don't assume.
 5 Q. But you don't have any memory?
 6 A. I don't have a memory, no.
 7 Q. Fair enough. At some point you returned to
 8 perform services at Honeywell, correct?
 9 A. Yes, correct.
 10 Q. When was that?
 11 A. 1979.
 12 Q. Why did you return?
 13 A. John Haskell called me and asked me if I
 14 could do a couple of jobs for him.
 15 Q. At that time, between the time you left and
 16 the time Mr. Haskell called you, were you providing
 17 services for anyone at all, whether as an employee
 18 or otherwise?
 19 A. No.
 20 Q. Could you identify who Mr. Haskell is?
 21 A. Mr. Haskell ran the technical illustration
 22 department.
 23 Q. Was that the department you worked at before
 24 you left Honeywell in '79?

Page 53

1 A. When I first came -- I have to clarify this.
 2 Q. Sure.
 3 A. When I first came to the company, there were
 4 three art departments.
 5 Q. Okay.
 6 A. I was in one, which mainly took care of
 7 in-house. There was another art department, which
 8 was John Haskell's art department, which did all the
 9 technical illustration and manuals. Then there was
 10 another art department that just handled PR, outside
 11 work. So I transferred from the first art
 12 department to John Haskell's department. And then
 13 in that time frame I left.
 14 Q. How long had you been working in
 15 Mr. Haskell's department before you left in 1979?
 16 A. I'm not sure. Maybe a year.
 17 Q. So you said Mr. Haskell called you and asked
 18 you to do a couple of projects; is that correct?
 19 A. That's correct.
 20 Q. That was also in calendar year 1979?
 21 A. Yes.
 22 Q. You weren't employed at all in the interim,
 23 between the time you left and the time you came
 24 back?

William J. Gavin

Page 54

1 A. Correct.
 2 Q. How long a period of time was that?
 3 A. I'm not sure exactly. No more than a few
 4 months.
 5 Q. Did Mr. Haskell call you on the phone?
 6 A. Yes.
 7 Q. Do you recall what he said?
 8 A. I don't remember his exact words.
 9 Q. Did you in fact enter into a relationship
 10 with Honeywell after that conversation? Yes, after
 11 that conversation.
 12 A. Yes, yeah.
 13 Q. Did you have any discussions with
 14 Mr. Haskell before you returned to work?
 15 A. Only when he called me to come in.
 16 Q. Did he tell you the types of projects?
 17 A. It was the same work.
 18 Q. When you say "the same work," what do you
 19 mean?
 20 A. The work that I was working on when I left
 21 was the same work that I worked on when I came back.
 22 Q. You said Mr. Haskell's department was
 23 responsible for technical illustrating; is that --
 24 do I have that correct?

Page 55

1 A. Yes.
 2 Q. What is that used for, if I may ask?
 3 A. It was more than technical illustration.
 4 Illustration was part of it. It was pasting up and
 5 producing camera ready artwork for their tech
 6 manuals, product briefs. Anything that the company
 7 used for publication for themselves.
 8 Q. But that's internal publication?
 9 A. Internal publications.
 10 Q. You said there were a couple of projects he
 11 wanted you to work on, correct?
 12 A. Correct.
 13 Q. Those weren't projects you had been working
 14 on prior to the time you left; is that fair to say?
 15 A. Not the same projects, no.
 16 Q. What was the relationship upon your return
 17 to work for Honeywell?
 18 MR. WILGOREN: Objection.
 19 MR. DONOGHUE: I'll withdraw the
 20 question and re-ask the question.
 21 Q. At the time you left Honeywell in 1979, you
 22 were an employee, correct?
 23 A. Yes.
 24 Q. When you came back, were you an employee?

Page 56

1 MR. WILGOREN: Objection. Calls for
 2 legal conclusion.
 3 Q. Were you classified as an employee?
 4 A. I'm not sure how they classified me.
 5 Q. How did you get paid?
 6 A. By check.
 7 Q. Was it payroll check?
 8 A. It was a company check.
 9 Q. Do you know if it was a payroll check?
 10 A. I have no idea.
 11 Q. Do you know if there were tax deductions
 12 taken out of the check?
 13 A. Oh, there were no tax deductions.
 14 Q. Did you have any discussion with Mr. Haskell
 15 as to the basis upon which you would be returning to
 16 Honeywell?
 17 A. I'm not sure what you mean.
 18 Q. At the time you left, you were an employee,
 19 correct?
 20 A. Correct.
 21 Q. You came back. Did you have an
 22 understanding at all that your status was different?
 23 MR. WILGOREN: Objection.
 24 A. Different in the sense that I wasn't an

Page 57

1 employee.
 2 Q. Okay.
 3 A. At least in their eyes.
 4 Q. You had that understanding when you came
 5 back?
 6 A. Yes.
 7 Q. How did you have that understanding?
 8 A. I'm not sure -- how did I have an
 9 understanding?
 10 Q. Okay, did Mr. Haskell tell you that before
 11 you returned?
 12 A. He didn't tell me anything, really.
 13 Q. How did you learn that you were no longer
 14 considered by Honeywell to be an employee?
 15 A. They created purchase orders.
 16 Q. All right. Who were those purchase orders
 17 directed to?
 18 A. To me.
 19 Q. Personally?
 20 A. To the company.
 21 Q. Which company?
 22 A. Gavin Studio -- Gavin Associates at the
 23 time.
 24 Q. Somehow you had to know about Gavin

15 (Pages 54 to 57)

William J. Gavin

Page 58

1 Associates, correct?

2 A. I'm not sure I know what you mean. How I

3 had to know. He, John Haskell created it.

4 Q. But he told you about it?

5 A. Yes.

6 Q. What did he say?

7 A. He said I'm going -- we're going to give you

8 this name, Gavin Associates.

9 Q. Did he tell you --

10 A. And I will bill against it or bill.

11 Q. Did he tell you, you would have purchase

12 orders in Gavin Associates' name?

13 A. He didn't tell me. He just produced them.

14 Q. Did you send invoices to Honeywell from

15 Gavin Associates?

16 A. Yes.

17 Q. How did you come to do that?

18 A. I was instructed to.

19 Q. By who?

20 A. John Haskell.

21 Q. When Mr. Haskell advised that you would be

22 paid on a purchase order, did he also advise you

23 that the company considered you to be a contractor?

24 A. He didn't really specify, that I remember.

Page 59

1 Q. Was that your understanding of how the

2 company perceived you?

3 A. At the time, yes.

4 Q. It was. Okay. So you knew when you went

5 back to work in '79 that the company was treating

6 you as an independent contractor?

7 A. Yes.

8 Q. And you got paid a check based on a purchase

9 order, correct?

10 A. Yes.

11 Q. And there were no taxes taken out of that

12 check?

13 A. Correct.

14 Q. In fact, were there any deductions at all

15 taken out of the check?

16 A. No.

17 Q. Were you familiar with employee benefits

18 that the company had provided its employees prior to

19 the time you left Honeywell in 1979?

20 A. Just from what I learned when I was -- my

21 first -- became employed with the company in '75.

22 Q. But you had worked there almost four years,

23 correct?

24 A. '75, '76 -- approximately.

Page 60

1 Q. During that time, were you aware of the

2 company's vacation policy?

3 A. Yes.

4 Q. And you were aware of any retirement benefit

5 funds the company had?

6 A. What was in the manual, yes.

7 Q. You received manuals at the time you started

8 working?

9 A. Yes.

10 Q. And you were aware of the company's health

11 insurance program at the time?

12 A. Yes.

13 Q. Before you left the company in '79, were you

14 participating in the health insurance program?

15 A. I honestly don't remember.

16 Q. Were you participating in any other

17 insurance programs that the company had before then?

18 A. No.

19 Q. Is that a no or you don't know?

20 A. No, I don't believe so.

21 Q. What else do you recall about the company's

22 benefit program at the time you became an employee

23 in '75?

24 A. I don't recall anything else.

Page 61

1 Q. Now, when you rejoined the company at

2 Mr. Haskell's request in '79, you understood that

3 the company was not considering you an employee at

4 that time; is that correct?

5 A. That's correct.

6 Q. And you knew that you weren't, in the

7 company's eyes, eligible for vacation time; is that

8 correct?

9 A. Correct.

10 Q. You knew that you also were not eligible for

11 participation in the company's health insurance

12 program at that time, correct?

13 A. Correct.

14 Q. And did you also know that you were not

15 considered a participant in the company's retirement

16 benefit plans at that time?

17 MR. WILGOREN: Objection. Are you

18 asking from the company's point of view with respect

19 to all these questions?

20 MR. DONOGHUE: Let me withdraw the

21 question and re-ask it to make sure we're clear.

22 Q. When you returned in '79, you understood the

23 company did not consider you to be eligible for

24 participation in its retirement plans; is that

William J. Gavin

Page 62

1 correct?
 2 A. Correct.
 3 Q. Was it your understanding when you came back
 4 at Mr. Haskell's request in 1979 that you were not
 5 considered a participant in any of the company's
 6 employee benefit programs?
 7 A. Correct.
 8 Q. So you did understand that at that time?
 9 A. That's what I believed, yes.
 10 Q. Do you recall, when you first returned and
 11 you were working on these projects, was there an
 12 hourly rate? Well, strike that.
 13 What was the basis of your payment?
 14 A. It was based on an hourly rate.
 15 Q. What was the hourly rate, if you recall at
 16 that time?
 17 A. I believe we stated it was like seven
 18 dollars and something an hour somewhere.
 19 Q. Do you recall if it was a higher rate than
 20 the rate you had been paid when you were an
 21 employee?
 22 A. No.
 23 Q. Do you recall what the rate was that you
 24 were paid at, at the time you left employment in

Page 63

1 early 1979?
 2 A. I don't really remember.
 3 Q. But you don't have any memory one way or
 4 another as to whether, let me make sure I finish the
 5 question, as to whether the rate you were paid upon
 6 your return was different than the rate you were
 7 paid upon your departure?
 8 A. I don't recall.
 9 Q. You submitted invoices from Gavin Associates
 10 at first?
 11 A. Correct.
 12 Q. How frequently did you submit invoices?
 13 A. After a job was completed.
 14 Q. When you first returned to provide services
 15 for Honeywell at Mr. Haskell's request, how many
 16 hours did you spend on the projects that he asked
 17 you to come back to work on?
 18 A. They varied from job to job.
 19 Q. Was it full time?
 20 A. Yes -- not at first it wasn't, no.
 21 Q. Regardless of the length of each particular
 22 project, you sent an invoice under Gavin Associates'
 23 name for each project?
 24 A. Not for each project.

Page 64

1 Q. How did you send the invoices?
 2 A. Per purchase order.
 3 Q. Per purchase order, okay. Were purchase
 4 orders and projects not the same thing?
 5 A. No, they weren't.
 6 Q. Was there one purchase order per project or
 7 how did that work?
 8 A. No, it depended on the job. Usually
 9 whatever they could fit on it.
 10 Q. Would you know the amount of the purchase
 11 order before you began providing services?
 12 A. No.
 13 Q. Are you familiar with a company known as
 14 Sullivan & Cogliano?
 15 A. Yes.
 16 Q. Did you have any sort of relationship with
 17 them at all?
 18 A. Yes.
 19 Q. What was that relationship?
 20 A. I was asked by John Haskell to go through
 21 Sullivan & Cogliano so they could provide pay
 22 through them by way of Honeywell to --
 23 Q. Go ahead.
 24 A. To -- the reasoning being they could not

Page 65

1 hire me back directly for one year. So I had to go
 2 through an agency.
 3 Q. When you say "the reasoning," was that what
 4 Mr. Haskell told you?
 5 A. Yes.
 6 Q. Do you recall specifically what he said?
 7 A. Basically what I said. I don't know the
 8 exact words, but that company's policy was not to
 9 re-hire people for one year after they leave on
 10 their own.
 11 Q. At the time you had that conversation, did
 12 you understand that Honeywell was proposing to bring
 13 you back as an independent contractor?
 14 A. Again, time frame, I was not aware of how
 15 long this was going to go on.
 16 Q. I'm not sure that -- you indicated that
 17 Mr. Haskell told you that because of a company rule
 18 as to bringing people back within a year, you had to
 19 be employed or work through Sullivan & Cogliano,
 20 correct?
 21 A. Correct.
 22 Q. At the time of that discussion, was it your
 23 understanding that Mr. Haskell was proposing to
 24 bring you back as an independent contractor?

17 (Pages 62 to 65)

William J. Gavin

Page 66

1 A. During that time or --
 2 Q. Yes.
 3 A. Yes.
 4 Q. How long did you actually do work for
 5 Honeywell through Sullivan & Cogliano?
 6 A. Approximately one year.
 7 Q. During the time you were providing services
 8 through Sullivan & Cogliano, had Gavin Associates
 9 been created by then?
 10 A. Yes.
 11 Q. Were you sending invoices --
 12 A. Oh, excuse me. No, they were not created by
 13 then.
 14 Q. I just want to get the chronology right.
 15 Did you end up providing services through Sullivan &
 16 Cogliano?
 17 A. To Honeywell, yes.
 18 Q. Yes, okay. Was Sullivan & Cogliano treating
 19 you as an employee or as an independent contractor?
 20 A. I believe an employee.
 21 Q. Do you have any memory of that at all?
 22 A. They withheld taxes, if that's what you
 23 mean.
 24 Q. Okay. At some point you stopped becoming --

Page 67

1 you stopped providing services through Sullivan &
 2 Cogliano, correct?
 3 A. Correct.
 4 Q. Is that the time when Gavin Associates came
 5 into being?
 6 A. Yes.
 7 Q. For how long -- your testimony was that was
 8 approximately a year after you returned to
 9 Honeywell?
 10 A. Yes.
 11 Q. So is it fair to say that was approximately
 12 1980?
 13 A. It's fair to say, yes.
 14 Q. So was Gavin Associates created in 1980,
 15 approximately?
 16 A. Approximately.
 17 Q. How long was it before Gavin Associates
 18 became Gavin Studio?
 19 A. Again, I'm not sure exactly, but it
 20 wasn't -- I don't remember what I answered awhile
 21 ago.
 22 Q. Other than the name change, was there any
 23 other change when Gavin Associates became Gavin
 24 Studios?

Page 68

1 A. Change in what respect?
 2 Q. In any respect, other than the name change.
 3 A. No.
 4 Q. Do you receive any benefits as an employee
 5 of Sullivan & Cogliano?
 6 A. I believe they had an employee policy of
 7 providing vacation days, but I never got to that
 8 point.
 9 Q. You weren't there long enough?
 10 A. Correct.
 11 Q. Now, how about health insurance or any other
 12 benefits?
 13 A. I don't remember.
 14 Q. Other than changing from the relationship to
 15 providing services through Sullivan & Cogliano when
 16 you began providing services through Gavin
 17 Associates, was there any other change in terms of
 18 the services you provided to Honeywell?
 19 A. No.
 20 MR. DONOGHUE: Can I take about two
 21 minutes?
 22 MR. WILGOREN: Why don't we take about
 23 five minutes.
 24 (Whereupon, a recess was taken)

Page 69

1 Q. Mr. Gavin, I should have mentioned this
 2 before. When we take breaks, you realize when we
 3 come back, you're still under oath? You understand
 4 that?
 5 A. I understand.
 6 Q. When you came back to Honeywell in '79, were
 7 your projects assigned to you by Mr. Haskell?
 8 A. Yes.
 9 Q. Were they assigned to you on a
 10 project-by-project basis?
 11 A. It varied.
 12 Q. Okay. Explain the variation to me, then.
 13 A. There was a job pile. Again, they were
 14 doing numerous publications of various types, tech
 15 manuals and product briefs. And when they were
 16 ready to be pasted up, they would end up in a pile.
 17 If you had something -- if you had a free moment,
 18 like you completed another job, you would just grab
 19 the next one.
 20 Q. Did you have any sort of a formal
 21 description of your work position or your job at
 22 that point?
 23 A. Not that I recall.
 24 Q. Were there other people at the time --

18 (Pages 66 to 69)

William J. Gavin

Page 82

1 A. It was after I inquired about -- after I
 2 spoke with my lawyer, Michael Romaneau.
 3 Q. Prior counsel?
 4 A. Yes.
 5 Q. Was that sometime in 2002?
 6 A. Yes.
 7 Q. Did you type this up and prepare it
 8 yourself?
 9 A. I did.
 10 Q. I'm going to ask you a couple of questions
 11 about it. The first page there's a reference to
 12 Sullivan & Cogliano; do you see that?
 13 A. I do.
 14 Q. Does that reflect the dates that you
 15 provided work to -- or provided services for
 16 Honeywell through Sullivan & Cogliano?
 17 A. Yes.
 18 Q. So is it fair to say that, that relationship
 19 ended in June of 1979?
 20 A. Yes.
 21 Q. Is it fair to say it began in June of 1978?
 22 A. Yes.
 23 Q. The information you have when you provided
 24 services through Sullivan & Cogliano has the number

Page 83

1 of hours of work as well as the total amount paid,
 2 correct?
 3 A. Correct.
 4 Q. Does that refresh your memory at all as to
 5 what you were paid on an hourly basis during the
 6 time you provided services through Sullivan &
 7 Cogliano?
 8 A. Well, I would need a calculator to figure it
 9 out.
 10 Q. 224 divided by 32, would that yield the
 11 hourly rate?
 12 A. I would presume so, yes.
 13 Q. Was that a rate that you had discussed with
 14 Mr. Haskell at all?
 15 A. No.
 16 Q. How was that rate determined?
 17 A. Yes, excuse me, John Haskell and I did
 18 discuss it, and Sullivan & Cogliano had a higher
 19 rate. And of course through their company policy,
 20 they retained some of the pay for themselves as a
 21 commission.
 22 Q. Oh, okay. So Honeywell was paying, to your
 23 knowledge, was paying Sullivan & Cogliano an
 24 overhead fee for providing the services?

Page 84

1 A. Yes.
 2 Q. The figures in Exhibit 2, does that reflect
 3 the amounts you received?
 4 A. That I received, yes.
 5 Q. Is that before taxes?
 6 A. I'd have to look at the pay stubs to be
 7 sure. I don't remember.
 8 Q. Further on down the page, there is a
 9 reference to Gavin Associates, correct?
 10 A. Correct.
 11 Q. Does that reflect that your services to
 12 Honeywell began to be provided under the name Gavin
 13 Associates?
 14 A. That reflects the PO date, the invoice date,
 15 yes.
 16 Q. I notice there's some overlap between the
 17 beginning date of Gavin Associates and ending date
 18 of Sullivan & Cogliano. Would you agree with that?
 19 A. Yes.
 20 Q. Do you know why that is?
 21 A. The Sullivan Cogliano dates were the dates I
 22 was paid, not the date that I was working.
 23 Q. Okay. Do you recall how long a lag time
 24 there was between the date that you provided the

Page 85

1 services and the date that Sullivan & Cogliano paid
 2 you?
 3 A. I don't recall.
 4 Q. Do you recall there being a time when you
 5 were providing services to Honeywell during the same
 6 work week under both Sullivan & Cogliano and Gavin
 7 Associates?
 8 A. I was not.
 9 Q. If you turn to page 2 of Exhibit 2, there is
 10 a reference at 6/16/80. There's a remark, "move to
 11 Millis." Do you see that?
 12 A. Yes.
 13 Q. Is that when you moved to Millis?
 14 A. Yes, it is.
 15 Q. Did Gavin Associates move with you?
 16 A. Gavin Studio moved with me.
 17 Q. It was Gavin Studio at that time. Do you
 18 know when it changed from -- let me ask you this. I
 19 know I've asked you that question. Does looking at
 20 Exhibit 2 help you determine when Gavin Associates
 21 became Gavin Studio?
 22 A. No, it does not.
 23 Q. I notice on 3/2/81, there's a reference to
 24 married.

William J. Gavin

Page 90

1 Gavin Studio?
 2 A. Yes.
 3 Q. Is she employed full time anywhere?
 4 A. No.
 5 Q. Does she work anywhere other than Gavin
 6 Studio?
 7 A. No.
 8 Q. Are you employed anywhere -- are you working
 9 anywhere other than Gavin Studio?
 10 A. No.
 11 Q. I asked you whether Mrs. Gavin had performed
 12 services for Honeywell or Bull through Gavin
 13 Studios, and I believe you testified yes.
 14 A. Yes.
 15 MR. WILGOREN: Objection.
 16 Q. Was that before or after she ceased being an
 17 employee of Honeywell?
 18 A. Both.
 19 Q. As an employee, at the time you were
 20 married, was she a full-time employee at that time?
 21 A. No.
 22 Q. Do you know if she was receiving -- she was
 23 an employee, though, correct?
 24 A. Yes.

Page 91

1 Q. She was not a contractor?
 2 A. Correct.
 3 Q. How did you know that?
 4 A. She told me.
 5 Q. All right. Were you aware as an employee of
 6 what benefits she was receiving as an employee?
 7 A. Yes.
 8 Q. Was she participating in the company's
 9 health insurance program?
 10 A. Yes.
 11 Q. And you were aware of this, correct?
 12 A. Yes.
 13 Q. At the time you were married, did you then
 14 become covered under the health insurance program?
 15 A. Yes.
 16 Q. Did that continue as long as she was
 17 employed by the company?
 18 A. Correct.
 19 Q. Were you familiar with the other employee
 20 benefits she was receiving for Honeywell?
 21 A. Yes.
 22 Q. She received vacation time?
 23 A. Yes.
 24 Q. And you knew that, correct?

Page 92

1 A. Yes.
 2 Q. And you knew that you were not deemed by the
 3 company to be eligible for that; is that correct?
 4 A. I believe that.
 5 Q. You knew that was the company's position?
 6 A. Yes.
 7 Q. How about were you familiar with the
 8 retirement benefits program through your wife's
 9 employment?
 10 A. Yes.
 11 Q. And you knew you weren't covered by that
 12 program, correct?
 13 A. Yes.
 14 Q. At least in the company's view?
 15 A. In the company's perception.
 16 Q. The same with the other benefit programs,
 17 did you understand the difference between the
 18 benefits she received as an employee and your
 19 situation as a contractor?
 20 A. Yes.
 21 Q. If you move further down the second page of
 22 Exhibit 2, there's a reference to a new rate of 15,
 23 it says in approximately January of '82?
 24 A. Yes.

Page 93

1 Q. What does that indicate?
 2 A. That indicated a new rate, pay rate.
 3 Q. That's an hourly rate?
 4 A. Hourly rate.
 5 Q. That's the hourly rate you were invoicing
 6 Honeywell for?
 7 A. From that time, yes.
 8 Q. Do you recall what the rate was before that?
 9 A. I don't remember exactly.
 10 Q. Now, as of January of '82, was Mrs. Gavin
 11 still employed at Honeywell?
 12 A. At that time?
 13 Q. Yes.
 14 A. No, she was not.
 15 Q. At the time you were married, do you recall
 16 what her hourly rate was?
 17 A. I don't remember.
 18 Q. At the time your new rate was 15 dollars, do
 19 you know what the hourly pay rate was for the
 20 graphic artists who were employees at Honeywell?
 21 A. No, we never knew.
 22 Q. Did not know?
 23 A. Did not know.
 24 Q. But that's a position that your wife had

24 (Pages 90 to 93)

William J. Gavin

Page 94

1 held prior to the -- prior to the time she was laid
 2 off by the company, correct?
 3 A. Position she held --
 4 Q. She was a graphic artist, correct?
 5 A. Yes, she was a graphic artist.
 6 Q. I think I asked you if you recall what your
 7 wife's rate of pay was at the time she was laid off?
 8 A. I don't recall.
 9 Q. But at some point would you have known that
 10 figure?
 11 A. At some point I would, yes.
 12 Q. You just don't recall it now?
 13 A. I don't recall.
 14 Q. Did Mrs. Gavin work in the same department
 15 that you were working in?
 16 A. Yes.
 17 Q. Who was the supervisor of the department
 18 during that time?
 19 A. John Haskell.
 20 Q. Mr. Haskell, okay. I believe you testified
 21 that Mrs. Gavin had also done work for Honeywell
 22 through Gavin Studio; is that correct?
 23 A. Correct.
 24 Q. You indicated some of that had occurred

Page 95

1 while she was employed by Honeywell?
 2 A. Yes.
 3 Q. What was the nature of the work she did
 4 through Gavin Studio while she was employed by
 5 Honeywell?
 6 A. At times there would be work overload, and
 7 John Haskell would allow me to take some work home
 8 on the weekends or if a job had to be done for the
 9 next day, and we would get it done and bring it
 10 back.
 11 Q. That was invoiced by Gavin Studio to the
 12 company?
 13 A. Yes.
 14 Q. I think your testimony was that the invoices
 15 sent by Gavin Studio don't indicate who does the
 16 work?
 17 A. Correct.
 18 Q. So is it fair to say it would not indicate
 19 on that invoice whether you or Mrs. Gavin had done
 20 the work?
 21 A. Correct.
 22 Q. To your knowledge, was Mr. Haskell aware
 23 that Mrs. Gavin was doing some of this work?
 24 A. Yes.

Page 96

1 Q. Let me move on to page three of Exhibit 2.
 2 Actually, let me get back to that point. After the
 3 point in which -- once Mrs. Gavin was no longer
 4 employed by Honeywell, what were the circumstances
 5 under which she would perform services for Honeywell
 6 under the Gavin Studio name?
 7 A. Again, under the same circumstances.
 8 Q. Same circumstances, okay. Do you have any
 9 estimate as to how many hours Mrs. Gavin performed
 10 work for the company?
 11 A. I don't know.
 12 Q. On page three of Exhibit 2, am I reading
 13 correctly that the hourly rate changed to 18 dollars
 14 in approximately January of '83?
 15 A. That is correct.
 16 Q. How were these rates determined?
 17 A. I would approach I believe at the time was
 18 Peter Stravropolous. I take that back, sorry. I
 19 would approach Ted Lavash on some of these, on this
 20 one.
 21 Q. What would you say when you approached him?
 22 A. I would say I would like to increase my
 23 rate.
 24 Q. Was Mr. Lavash agreeable to that?

Page 97

1 A. One time, yes.
 2 Q. Was that in '83?
 3 A. Yeah, I believe so.
 4 Q. How about in '82, how did that increase come
 5 about?
 6 A. I correct myself. This one was through --
 7 the new rate of 15 dollars an hour was through Ted
 8 Lavash. And that was the one time that I asked or
 9 told him what I would want and he said okay.
 10 Q. So you asked for the 15?
 11 A. I asked for the 15.
 12 Q. And he agreed to it?
 13 A. He agreed to it.
 14 Q. What about when the amount was increased to
 15 18?
 16 A. I don't remember how that one came about.
 17 Q. Now, the invoices that were sent to
 18 Honeywell or Bull from Gavin Studio, would there be
 19 any way that anyone at Honeywell or Bull could tell
 20 by looking at the invoice whether the work was
 21 performed by you or by Mrs. Gavin?
 22 A. No.
 23 Q. Did anybody else perform work for Gavin
 24 Studio, other than you or Mrs. Gavin?

25 (Pages 94 to 97)

William J. Gavin

Page 98

1 A. No.
 2 Q. Is there any way in your records or Gavin
 3 Studio's records that you could show what hours were
 4 done by you versus Mrs. Gavin?
 5 A. No.
 6 Q. Let's move to -- two pages over. There is
 7 an entry on 9/4/84. Do you see that?
 8 A. Yes.
 9 Q. There's an entry. It says blanket PO. Can
 10 you tell me what that refers to?
 11 A. That refers to a PO written for X amount of
 12 dollars to bill against for services rendered.
 13 Q. Was that a change from the prior way that
 14 the billing had been done?
 15 A. Yes.
 16 Q. How had it been done previously?
 17 A. Previously they would itemize every job.
 18 Q. The numbers, I should have asked you this
 19 before, but the numbers that are beginning on page
 20 one, PO number, is that the Honeywell or Bull
 21 purchase order number?
 22 A. That is correct.
 23 Q. And January of '85, looks like the rate goes
 24 up to 20 dollars; do you see that?

Page 99

1 A. I do.
 2 Q. Do you know how that came about?
 3 A. I believe I asked for an increase, and
 4 that's what they gave me.
 5 Q. Do you recall who it was that approved that
 6 increase at that time?
 7 A. That would have been Ted Lavash.
 8 Q. Do you recall at that time as of January of
 9 '85 what the hourly rate for the graphic artists who
 10 were employees, do you recall what their hourly rate
 11 was?
 12 A. It was never discussed.
 13 Q. So you don't know?
 14 A. I don't know.
 15 Q. In future pages there are references to
 16 blanket PO. Is that the same process you previously
 17 described?
 18 A. That is correct.
 19 Q. And at July or -- excuse me, turning over
 20 the next page, September of '86, there's an
 21 indication of a new rate of 21.50; do you see that?
 22 A. I see that.
 23 Q. Do you know how that increase came about?
 24 A. I believe I asked for an increase, and

Page 100

1 that's what they gave me.
 2 Q. Do you recall how much of an increase --
 3 A. Oh, I do remember this one. I take that
 4 back. This was given to me by James Koval.
 5 Q. Who is Mr. Koval?
 6 A. He was -- I'm not sure what his title was,
 7 but he was above -- somewhere between Peter and me.
 8 Somewhere in there.
 9 Q. He was --
 10 A. He was like a -- he was the manager, put it
 11 that way, manager.
 12 Q. Was he a level above Peter?
 13 A. No, he was below Peter.
 14 Q. And you had asked for an increase to that
 15 amount?
 16 A. I had asked for an increase, and that's what
 17 he said to give me. He told them to give me a
 18 dollar and a half.
 19 Q. With all these new rates that are listed on
 20 Exhibit 2, is it correct that once the new rate is
 21 indicated, that future invoices would be billed at
 22 that rate?
 23 A. Yes.
 24 Q. And the rate increases -- well, there's an

Page 101

1 indication, it says Honeywell Bull between '87 and
 2 '88. Do you see that reference?
 3 A. Yes.
 4 Q. What does that mean?
 5 A. Honeywell joined forces with Bull
 6 Information Systems, and they used a split name.
 7 Q. And your rate increased to 23 dollars in
 8 April of '88?
 9 A. Yes.
 10 Q. Do you recall how that came about?
 11 A. I don't recall exactly how it came about.
 12 Q. Do you recall if you requested an increase?
 13 A. All the rates were requested.
 14 Q. Okay. In April of '91, the rate was
 15 increased to 29 dollars?
 16 A. Yes.
 17 Q. And again, that was at your request?
 18 A. The amount was not my request, but I had
 19 requested an increase.
 20 Q. What was the amount you had requested?
 21 A. I didn't request an actual amount.
 22 Q. Oh, okay. You just requested an increase?
 23 A. Yes, and -- yes.
 24 Q. And in April of '92, there was an increase

William J. Gavin

Page 102

1 to 35 dollars, correct?
 2 A. Yes.
 3 Q. Again, was that per your request?
 4 A. Yes.
 5 Q. Going onto the last page. There were
 6 several other increases noted there from 37 -- to 37
 7 dollars, then to 40 dollars, then to 60 dollars; is
 8 that correct?
 9 A. Correct.
 10 Q. Do you recall any of the specifics of the
 11 increases to 37 or 40 dollars?
 12 A. I don't recall exactly how they came about.
 13 These would have been asked through Peter.
 14 Q. Peter was the department supervisor at that
 15 time?
 16 A. Right.
 17 Q. How about the increase to 60 dollars, do you
 18 recall that at all?
 19 A. Yes, that was after I was told to sign a
 20 contract agreement and after I had inquired about
 21 contracts.
 22 Q. Did you actually perform work at the 60
 23 dollar rate?
 24 A. Yes, I did.

Page 103

1 Q. Did you sign a contract?
 2 A. I did, under the lawyer's direction.
 3 Q. During any of these time periods up until
 4 November of '01, did you have any knowledge as to
 5 the hourly rate for the graphic artists who were
 6 employed by Bull?
 7 A. No.
 8 Q. Did you understand that all of you were
 9 receiving more on an hourly rate as a contractor
 10 than employees received?
 11 MR. WILGOREN: Objection.
 12 A. I wasn't totally sure.
 13 Q. You say you're not totally sure, do you have
 14 some --
 15 A. Well, you're talking my pay compared to
 16 employee's pay that were there?
 17 Q. Yes.
 18 A. Again, I don't know what the employees were
 19 being paid.
 20 Q. But did you have an understanding that your
 21 pay rate was higher than their pay rate?
 22 A. Again, I wasn't totally sure.
 23 Q. But it sounds like --
 24 A. Some of the employees had been there 20, 30

Page 104

1 years. So I have no idea what they were making.
 2 Q. But did you have some reason to think that
 3 your hourly rate was higher than the employee's
 4 hourly rate?
 5 MR. WILGOREN: Objection, he testified
 6 he didn't know what the employees were making.
 7 MR. DONOGHUE: He said he wasn't
 8 completely sure. I'm just trying to test the limits
 9 of that.
 10 A. I don't know.
 11 Q. Did you ever have any discussion with any of
 12 the employees who were graphic artists as to what
 13 their hourly rate was?
 14 A. No, I did not.
 15 Q. Now, during the entire time that was
 16 indicated by Exhibit 2, I think I've already asked
 17 you questions, that when you came back to perform
 18 services for the company in you believe it was '79,
 19 that you knew you were an independent contractor,
 20 correct?
 21 A. That's my belief.
 22 Q. Was that your understanding throughout the
 23 time period reflected on Exhibit 2?
 24 A. That's what I believed.

Page 105

1 Q. So you knew during that entire time period
 2 that the company was treating you as an independent
 3 contractor and not an employee, correct?
 4 A. That was my understanding.
 5 Q. And you also understood that since the
 6 company considered you to be a contractor and not an
 7 employee, that there were certain employee benefits
 8 that the company did not think you were eligible
 9 for?
 10 MR. WILGOREN: Objection.
 11 Q. Is that correct?
 12 A. Correct.
 13 Q. That was your understanding throughout the
 14 entire period of time reflected by Exhibit 2,
 15 correct?
 16 A. Yes, up to the point of signing the
 17 contract.
 18 Q. Up until the point you signed the contract,
 19 you knew that in the company's view, you were not
 20 considered as a participant or eligible for their
 21 employee benefit programs?
 22 A. Correct.
 23 Q. During any of that period of time from '79
 24 or -- actually if you look at Exhibit 2 again, it

27 (Pages 102 to 105)

William J. Gavin

Page 106

1 indicates you started work for Sullivan & Cogliano
 2 in '78. Do you recall if that's the actual time
 3 period in which you came back to the company after
 4 having left?
 5 A. Came back to the company through Sullivan &
 6 Cogliano?
 7 Q. Yes.
 8 A. It must have been shortly before that,
 9 because I'm sure these are billing dates.
 10 Q. At no time between, whatever the date is,
 11 between the date you -- let's start at the date of
 12 Gavin Associates. From the time you began providing
 13 services through Gavin Associates through the time
 14 you signed the contract in November of '01, you
 15 understood during that entire period that you were
 16 not considered an employee, correct?
 17 MR. WILGOREN: By Bull?
 18 MR. DONOGHUE: By Bull.
 19 A. Yes.
 20 Q. Or Honeywell.
 21 A. Or Honeywell.
 22 Q. At the time you initially worked for
 23 Honeywell from approximately '75 to '78 or '79, you
 24 did have familiarity with what the company's benefit

Page 107

1 policies were, correct?
 2 A. Yes, through the handbook.
 3 Q. And that included descriptions of the
 4 retirement plan?
 5 A. I don't recall what I actually read at the
 6 time, but yes.
 7 Q. Insurance plans?
 8 A. Yes.
 9 Q. And vacation and holiday policies, things of
 10 that sort?
 11 A. Yes.
 12 Q. Have you been paying your own
 13 self-employment taxes since 1979?
 14 A. Yes.
 15 Q. You have not, during that time, been an
 16 employee of Gavin Studio, correct?
 17 A. I have not been? Say that again.
 18 Q. Gavin Studio does not employ you, correct?
 19 A. No.
 20 Q. When did you first raise with anybody at
 21 Honeywell or Bull the issue as to your
 22 classification as an independent contractor?
 23 A. That would have been November 2001.
 24 Q. Had you asked anyone before that to change

Page 108

1 your status to an employee?
 2 A. No.
 3 Q. Did you ask anybody at Honeywell or Bull
 4 before that as to what your eligibility was for
 5 employee benefits?
 6 A. No.
 7 Q. Who did you raise the issue with in 2001?
 8 A. Cecile Ray.
 9 Q. How did that come about?
 10 A. When I received the contract to sign to take
 11 and read over before I signed it, I went on the Web
 12 and investigated employee contractor law, and I came
 13 across a lot of information.
 14 Q. It had never occurred to you to look at that
 15 before November of 2001?
 16 A. No.
 17 Q. What caused you to look in that direction?
 18 A. There was a lot to read in that contract,
 19 and I wanted to know what I was signing and what I
 20 was reading.
 21 MR. WILGOREN: Can we go off the record?
 22 MR. DONOGHUE: Yes.
 23 (Discussion off the record)
 24 (Whereupon, a recess was taken)

Page 109

1 (Exhibit 3 marked for identification)
 2 (Document exhibited to witness)
 3 Q. Mr. Gavin, do you have Exhibit 3 in front of
 4 you?
 5 A. I do.
 6 Q. There's a reference in Exhibit 2 to a -- let
 7 me make sure I have the correct reference here. To
 8 Integris on the last page. Do you see that
 9 reference?
 10 A. Yes, I do.
 11 Q. You refer to an agreement that you were
 12 presented with. Is Exhibit 3 that agreement?
 13 A. Yes.
 14 Q. I call your attention to page six. There is
 15 a signature there, a signature on behalf of Gavin
 16 Studio. Do you see that?
 17 A. Yes.
 18 Q. Is that your signature?
 19 A. Yes.
 20 Q. Also it indicates a date of 11/8/02. Is
 21 that the correct date?
 22 A. That's when I signed it.
 23 Q. If I call your attention back to the last
 24 page of Exhibit 2, the reference to Integris states

William J. Gavin

Page 114

1 period you provided services to Honeywell or Bull as
 2 an independent contractor, were you given the
 3 opportunity to become an employee?
 4 MR. WILGOREN: Objection as to form.
 5 A. Was I given the opportunity at any time?
 6 Q. Yes.
 7 A. I was asked once to become an employee.
 8 Q. When was that?
 9 A. Exact date I'm not sure. It was -- Linda
 10 Nidle asked me.
 11 Q. Do you recall what she said?
 12 A. She wanted to know if I ever considered
 13 becoming an employee.
 14 Q. What did you respond?
 15 A. I said no, I hadn't.
 16 Q. Did she ask you at that time whether you
 17 were interested in becoming an employee?
 18 A. Yes, she did.
 19 Q. What was your response at that time?
 20 A. I said I would like to know more
 21 information.
 22 Q. Did you ever have any subsequent discussion
 23 with her about that?
 24 A. I did have some -- a discussion with her.

Page 115

1 Q. When was that?
 2 A. Again, I'm not sure what years. Around
 3 1991.
 4 Q. Can you put it in context from the first
 5 discussion you had with Linda Nidle about becoming
 6 an employee when you had that second discussion?
 7 A. It was at the time when my rate changed.
 8 Q. You're referring to Exhibit 2?
 9 A. Yes. Again, this is the rate change. The
 10 date is when this was billed or the PO was written,
 11 it was 4/23/91. So that's approximate.
 12 Q. So your recollection is the '91?
 13 A. '91.
 14 Q. And you indicated you had a discussion in
 15 which Linda Nidle asked you if you're interested in
 16 becoming an employee?
 17 A. Yes.
 18 Q. And you said you'd like more information?
 19 A. Yes.
 20 Q. And you had a follow-up discussion with
 21 Linda Nidle?
 22 A. Yes.
 23 Q. How long after the first discussion was it
 24 before the second discussion took place?

Page 116

1 A. Within a week.
 2 Q. What happened in that discussion?
 3 A. I was offered a pay less than I was making.
 4 Q. To become an employee?
 5 A. To become an employee.
 6 Q. Was your understanding that if you became an
 7 employee, you would be eligible for employee
 8 benefits?
 9 A. I would assume that, yes.
 10 Q. What were they offering to pay you?
 11 A. As an hourly rate?
 12 Q. Yes.
 13 A. 27 dollars an hour.
 14 Q. What were you currently earning at that
 15 point?
 16 A. 29.
 17 Q. What did you say?
 18 A. I said no.
 19 Q. Did you have any further discussion with
 20 Linda Nidle at that time?
 21 A. No.
 22 Q. Did you ever pursue it at any other --
 23 A. No.
 24 Q. -- time? So you made the decision at that

Page 117

1 time that you were not interested in being
 2 classified as an employee?
 3 MR. WILGOREN: Objection.
 4 A. Not for that pay, no.
 5 Q. Do you know if other contractors were
 6 offered the same opportunity at around that same
 7 time?
 8 A. Not that I know of.
 9 Q. Were you aware at any time during the period
 10 that you provided services to Honeywell or Bull as a
 11 contractor of the company making an offer to
 12 contractors to become employees?
 13 MR. WILGOREN: Objection.
 14 A. No.
 15 Q. And you knew when you rejected Ms. Nidle's
 16 offer to become an employee that you would continue
 17 to be not eligible for the employee benefits, the
 18 benefits that employees received?
 19 MR. WILGOREN: Objection.
 20 A. Yes, that was my understanding.
 21 Q. I'm sorry, I didn't --
 22 A. That was my understanding.
 23 (Exhibit 5 marked for identification)
 24 (Document exhibited to witness)

William J. Gavin

<p style="text-align: right;">Page 138</p> <p>1 A. Yes, I do.</p> <p>2 Q. Are you friends or --</p> <p>3 A. Well, we chat on line. You know, we send</p> <p>4 e-mails.</p> <p>5 Q. Sure. Do you recall when Mr. Massa sent</p> <p>6 this to you?</p> <p>7 A. I don't remember exactly, but it had to be</p> <p>8 after this date.</p> <p>9 Q. Do you recall if it was soon after this date</p> <p>10 or a long time from this date?</p> <p>11 A. It was soon after this date.</p> <p>12 Q. So you received this approximately June of</p> <p>13 2002?</p> <p>14 A. Yes.</p> <p>15 Q. Had you previously been aware of anything</p> <p>16 relating to the freezing of the Bull pension plan?</p> <p>17 A. No.</p> <p>18 Q. This was the first you heard of it?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know what it means to freeze the</p> <p>21 pension plan?</p> <p>22 A. Not really. I'm still not clear after</p> <p>23 reading it.</p> <p>24 Q. Okay, all right.</p>	<p style="text-align: right;">Page 140</p> <p>1 aware at the time that the pension plan had been</p> <p>2 frozen?</p> <p>3 A. Correct.</p> <p>4 Q. You weren't aware what that actually means?</p> <p>5 A. I was not aware.</p> <p>6 Q. And you also met with Mr. Thalen again in</p> <p>7 March 18th of 2002, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Is the substance of that discussion set</p> <p>10 forth in page five of Exhibit 9?</p> <p>11 A. Yes.</p> <p>12 Q. Let me call your attention to page seven of</p> <p>13 Exhibit 9, interrogatory number 11.</p> <p>14 A. Okay.</p> <p>15 Q. The question that is asked in that</p> <p>16 interrogatory is that at any time from 1979 through</p> <p>17 November 2001, did you ask Bull to withhold taxes</p> <p>18 from the payments made to you for services</p> <p>19 performed. Do you see that question?</p> <p>20 A. Yes.</p> <p>21 Q. There's not an answer to that. There's an</p> <p>22 objection stated. Do you see that following that?</p> <p>23 A. Yes.</p> <p>24 Q. Let me ask you that question now. At any</p>
<p style="text-align: right;">Page 139</p> <p>1 MR. WILGOREN: Actually, just to be</p> <p>2 accurate, this is to terminate the frozen retirement</p> <p>3 plan.</p> <p>4 MR. DONOGHUE: Okay, right. Okay.</p> <p>5 Q. But it refers to a frozen retirement plan,</p> <p>6 correct? Is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did you know -- an inference from this is</p> <p>9 that the retirement plan had previously been frozen.</p> <p>10 Would that have been something that you would have</p> <p>11 known about?</p> <p>12 A. I had heard something about the retirement</p> <p>13 plan was changed at one point. Not being familiar</p> <p>14 with it, I -- it never occurred to me to even try to</p> <p>15 understand it.</p> <p>16 Q. Returning back to your February 2002</p> <p>17 discussion with Mr. Thalen, did you ask him any</p> <p>18 questions about the pension plan?</p> <p>19 A. I didn't ask him any questions directly</p> <p>20 about the pension plan, no.</p> <p>21 Q. Did he, during this discussion at all,</p> <p>22 mention that the pension plan had been frozen?</p> <p>23 A. No, he did not.</p> <p>24 Q. I take it that you didn't -- you weren't</p>	<p style="text-align: right;">Page 141</p> <p>1 time from 1979 through November of 2001, did you ask</p> <p>2 Bull to withhold taxes from the payments due you?</p> <p>3 A. No.</p> <p>4 Q. You were aware that they were not</p> <p>5 withholding taxes, correct?</p> <p>6 A. Yes, I was aware.</p> <p>7 Q. Calling your attention to interrogatory</p> <p>8 number 13, which is on page -- which begins on page</p> <p>9 eight. This interrogatory refers to work that you</p> <p>10 did for other companies outside of your normal work</p> <p>11 hours for Bull; do you see that there?</p> <p>12 A. Yes.</p> <p>13 Q. From the 1979 period through 2001, did you</p> <p>14 perform any services, graphic arts related services</p> <p>15 for any entity other than through Gavin Studio?</p> <p>16 A. No.</p> <p>17 Q. You didn't perform any services as an</p> <p>18 employee of any other entity?</p> <p>19 A. As an employee, no.</p> <p>20 Q. Let me move to the bottom of page 13 and</p> <p>21 going over to page 14, interrogatory number 21.</p> <p>22 That asks you a question about whether or not you</p> <p>23 were offered the option of becoming employed in</p> <p>24 Bull's contingent workforce division; do you see</p>

36 (Pages 138 to 141)

William J. Gavin

Page 142

1 that on the top of page 14?
 2 A. I see it.
 3 Q. Had you ever heard the words contingent
 4 workforce division before?
 5 A. Yes.
 6 Q. When did you hear that?
 7 A. From Ted Lavash.
 8 Q. When was that?
 9 A. I'm not sure what year it was.
 10 Q. What did you understand the contingent
 11 workforce division to be?
 12 A. I wasn't really sure at the time.
 13 Q. Did you ask any questions about it?
 14 A. I didn't ask any questions about it.
 15 Q. What do you know about the contingent
 16 workforce division?
 17 A. That the company was changing its policy to
 18 workers.
 19 Q. Do you recall when that was?
 20 A. No, I don't. I don't remember the time of
 21 it, what year it was.
 22 Q. And your recollection was you heard it from
 23 Mr. Lavash?
 24 A. Yes.

Page 143

1 Q. Did you have any discussion with him about
 2 your becoming employed in the contingent workforce
 3 division?
 4 A. No.
 5 Q. Did you have any discussion with anybody
 6 about that?
 7 A. No.
 8 Q. You've previously discussed a conversation
 9 you had with Linda Nidle about becoming an employee.
 10 I'm just trying to put them in context. Was that
 11 before or after your discussion with Mr. Lavash
 12 about the contingent workforce division?
 13 A. With Linda Nidle?
 14 Q. Yes.
 15 A. That was her discussion. She left the
 16 company long before this came up.
 17 Q. So you had no discussion with anyone at Bull
 18 about the contingent workforce division, other than
 19 your discussion with Mr. Lavash?
 20 A. Correct.
 21 Q. Is there anything else you remember about
 22 the discussion with Mr. Lavash?
 23 A. It was just a passing comment.
 24 Q. You didn't inquire further?

Page 144

1 A. I didn't.
 2 Q. We'll go to the next exhibit.
 3 (Exhibit 11 marked for identification)
 4 (Document exhibited to witness)
 5 Q. I show you -- I'm not going to show you.
 6 You already have in front of you, Mr. Gavin, what's
 7 been marked as Exhibit 11; is that correct?
 8 A. Correct.
 9 Q. Have you seen that document before?
 10 A. Yes, I have.
 11 Q. Do you know what that is?
 12 A. I'm not sure what the technical term is.
 13 But, yes, I know what it is.
 14 Q. Is it your understanding that, that's the
 15 complaint which initiated the proceedings that bring
 16 us here today?
 17 A. I believe so.
 18 Q. Let me call your attention to page three,
 19 paragraph six.
 20 A. Okay.
 21 Q. The second sentence of paragraph six states,
 22 quote, upon information and belief, Bull
 23 intentionally did this to avoid the significant
 24 financial costs of providing Gavin with benefits to

Page 145

1 which he was entitled. Close quotes at that point.
 2 That refers to characterizing you as an independent
 3 contractor, correct?
 4 A. Yes.
 5 Q. What is the basis for your belief that Bull
 6 intentionally did this to avoid financial costs?
 7 A. Well, my belief is that the size of the
 8 company that Bull is, they would know what the legal
 9 aspects of hiring someone are.
 10 Q. Anything other than that?
 11 A. No, I don't believe so.
 12 Q. Is it your claim that the company did this
 13 intentionally to deprive you of benefits?
 14 A. I don't know that.
 15 Q. You don't know that?
 16 A. No.
 17 Q. You've testified already to your leaving the
 18 company and then coming back to work for Mr. -- I've
 19 lost track of his name, unfortunately.
 20 MS. HARRIS: Haskell.
 21 Q. Haskell, thank you. I may have already
 22 asked you this question, but when you came back, did
 23 you go to work at the same desk that you worked at
 24 before you left?

37 (Pages 142 to 145)

William J. Gavin

Page 194

1 Q. Do you follow the company's stock price at
2 all?
3 A. Not really.
4 Q. So you have --
5 A. Oh, can I take that back? My wife had
6 Honeywell stock. So in that sense, a dividend check
7 would come every once in awhile for three dollars.
8 That's the only knowledge I have.
9 Q. So you're not in a position to come up with
10 a calculation in stock options?
11 A. No, absolutely not.
12 MR. DONOGHUE: I'm going to take a
13 couple of minutes, if that's okay with you.
14 MR. WILGOREN: Sure.
15 (Whereupon, a recess was taken)
16 Q. Back to a couple of the documents. Do you
17 have Exhibit 11? Actually, no, Exhibit 9. I'm
18 sorry. My apologies.
19 A. I do.
20 Q. The figure I had asked you about, the
21 self-employment tax, do you see that on page 14?
22 A. Yes.
23 Q. Why do you put a figure representing half of
24 the self-employment tax?

Page 195

1 A. I think that's what the company's obligation
2 was.
3 Q. Interrogatory 18, which is -- goes over from
4 page 11 to page 12.
5 A. Yes.
6 Q. Actually, do you see interrogatory 18, 11
7 going on to page 12? Actually, let me ask the
8 question without referring to the interrogatory.
9 Between 1979 and January of 2002, did you ever
10 consult with a financial advisor or a consultant or
11 an accountant concerning your contractor situation?
12 A. No.
13 Q. Go back to -- bear with me while I find the
14 right interrogatory. Your discussion with Ted
15 Lavash about the contingent workforce division,
16 could you describe for us how that conversation
17 occurred?
18 A. He was leaving his cubicle. My cubicle was
19 right next to his. And he just off the cuff
20 mentioned that -- I think he came from a meeting
21 earlier or something and said that the company was
22 going to be starting a new program called CWD, and
23 that -- I don't remember his exact words, but
24 basically that all contractors were going to have to

Page 196

1 do it. I think that's what he said.
2 Q. Did you recall anything else about that
3 discussion?
4 A. He said -- I said -- he briefly described it
5 just saying, you know, they take out your taxes,
6 give you some vacation pay. And I said, "Well, I
7 don't know what that means. Doesn't sound like
8 anything good to me." That's the last I ever heard
9 of it.
10 Q. Did you ask him any questions about it after
11 that?
12 A. No.
13 Q. Was he directing his discussion to you, as
14 far as you knew, or were there others in the area as
15 well?
16 A. I think there was other people in the area,
17 but he was leaving. It was like a passing thought
18 as he was going by.
19 Q. When you say leaving, just leaving the area?
20 A. Leaving the area.
21 Q. Not --
22 A. No, he wasn't leaving the company. He was
23 walking out, and he saw me and just briefly said it.
24 Q. Do you have any form of an individual

Page 197

1 retirement account or any sort of a --
2 A. I had started an individual SEP.
3 Q. A SEP, all right.
4 A. SEP IRA.
5 Q. When did you start that?
6 A. I'm not sure of the exact dates. I'd have
7 to look at my taxes.
8 Q. It would be reflected on your taxes?
9 A. It would be on my taxes.
10 Q. Because you're taking the deduction for it?
11 A. Yeah.
12 Q. Since you've ceased providing services to
13 Bull, have you provided any services at all, other
14 than through Gavin Studios? Studio, excuse me.
15 A. Services?
16 Q. For any entity, either as an employee or
17 contractor.
18 A. Just individual jobs, like I had mentioned
19 before.
20 Q. Through Gavin?
21 A. Yes.
22 Q. Everything's through Gavin?
23 A. Everything's through Gavin Studio.
24 Q. During the time you provided services for

50 (Pages 194 to 197)